

**FUNERAL DIRECTORS EXAMINING BOARD
MINUTES
MADISON, WISCONSIN
SEPTEMBER 19, 2001**

PRESENT: W. Robert Cress, Bonnie Gift, Roy Pfeffer, Peter Schils and Rick Unbehaun,

EXCUSED: Dan Densow

STAFF PRESENT: Clete Hansen and Jacquelynn Rothstein, Legal Counsel; Judy Mender and Division of Enforcement staff for portions of the meeting.

GUESTS: Ashley Moore, FSA
Mark Krause
Christine Jacob
Barbara Schuler, WTCSB

CALL TO ORDER

The meeting was called to order at 9:38 a. m. by Roy Pfeffer, Chair. A quorum of 5 members was present.

AGENDA

MOTION: Robert Cress moved, seconded by Rick Unbehaun, to approve the agenda as written. Motion carried unanimously.

MINUTES (7/17/01)

MOTION: Bonnie Gift moved, seconded by Rick Unbehaun, to approve the minutes, as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Secretary Oscar Herrera

Secretary Herrera informed the Board about several biennial budget items that affect the Department. He said that a 5% cut in state budgets did not affect the Department's operations, because the Department has a reserve fund. The Department received three positions in DOE. Secretary Herrera also said that provisions pertaining to closing agents, the membership of the Pharmacy Examining Board, and a cemetery management fund were vetoed. The Department had requested the vetoes. Secretary Herrera answered several questions concerning license fees

and said that the Department needs adequate staff to provide the services that it should be providing to the boards, consumers and others.

Bureau Director's Report

- **Board Roster**

Bonnie Gift corrected her address.

- **2001 Meeting Dates**

The Board confirmed that it is back on schedule and that November 6 will be an acceptable date for the next meeting.

- **Summary Report on Bill Pending Court Cases, Disciplinary Cases and Administrative Rules**

The Board noted that in each section there is an item or two that pertain to the Board.

- **Legislative Status Report on Bill Drafting as of 8/6/01**

The Board noted that there are three drafting items listed for the Board. These pertain to the regulation of cremations, some minor changes regarding apprenticeship requirements, and the elimination of certificates in good standing. The Board informally requested that all persons holding certificates in good standing should receive a mailing from the Department concerning the requirements for obtaining an active license in the future.

- **To-Do List**

Noted

- **To-Pass Folder**

The To-Pass Folder was circulated and duly noted.

LEGISLATIVE UPDATE

Regulation of Crematories

Clete Hansen advised the Board that the Department has requested drafting, but has not yet received a draft.

Biennial Budget Bill

Clete Hansen explained several pages in the 2001 Wisconsin Act 16, relating to year-round burials, irrevocable burial trusts and license fees.

SB-171, Relating to Funeral Establishment Permits

The Board noted that there will be a hearing on this bill at 10 a.m. on October 3, 2001. Roy Pfeffer requested that Clete Hansen talk to Dan Densow about testifying at the hearing. Rick Unbehaun said that he might be able to testify. If no Board member is available, Clete Hansen will present the testimony on behalf of the Board. The Board had already expressed its support of this bill at its July meeting. Mark Krause said that the Wisconsin Alliance of Funeral Services would request an amendment to remove the need for an embalming room at each funeral establishment. The Board said that would not take a position on the amendment until the Board has had a chance to review the draft.

ADMINISTRATIVE RULES

The Board reviewed the Report to the Legislature and the proposed administrative rules. The Board briefly discussed how the Board and the Department determine who would be qualified to instruct continuing education classes under the criterion in the new rule that provides discretion to determine whether a person is otherwise qualified. The Board also discussed the need for lesson plans, and how quality of instruction is insured for continuing education classes. The Board acknowledged that instructors can have good qualifications on paper, but might not be very good at instructing in a classroom.

MOTION: Peter Schils moved, seconded by Bob Cress, to order that the final draft of Clearinghouse Rule 01-063 be sent to the legislative committees, as required by Chapter 227, Stats. Motion carried unanimously.

EXAMINATION ISSUES

Judy Mender informed the Board that procedures relating to the national exam had been put in place in July. The exam given on October 18 will be the last opportunity for applicants to take the complete Wisconsin exam. The Wisconsin state exam will be given every month.

The Board requested that staff obtain statistics concerning the performance of Wisconsin applicants on the National Exam.

BOARD MEMBER ACTIVITY

There was nothing of significance to report.

APPOINTMENT OF COMMITTEE TO REVIEW STATUTES AND RULES

Roy Pfeffer had proposed this agenda item. Mr. Pfeffer agreed to go through the Wisconsin statutes and rules, to find examples of items that may be out-of-date or unnecessary.

Clete Hansen said that he would put an article in the next issue of the Regulatory Digest and solicit suggestions from licensees.

MODEL PRENEED GUIDELINES, NATIONAL FUNERAL DIRECTORS ASSOCIATION

No action was taken. The Board informally decided not to further pursue this matter.

MISCELLANEOUS CORRESPONDENCE/INFORMATION

Correspondence with David Benke Regarding Reciprocity

The Board informally concurred with Clete Hansen's letter.

Survey Form From the Association of Executives of Funeral Service Boards

Noted

Correspondence With Church and Chapel Regarding Cash Advance Items

Noted

Rudolph L. Watkins, Good Shepherd Funeral Home v. Wisconsin Department of Revenue and Three Revenue Agents, et. al.

Noted

REMOVALS BY UNLICENSED PERSONS

Roy Pfeffer requested that Jacquelyn Rothstein prepare a written opinion concerning the legality of unlicensed persons to conduct removals.

NEW BUSINESS

The Board received a copy of the statistics relating to complaints received in 2001.

PUBLIC COMMENTS

None over and above those already made during the discussion of specific topics.

PRESENTATION OF PROPOSED STIPULATION BY PROSECUTOR

Henry Sanders, DOE Prosecutor, presented the stipulation, relating to Charles A. O'Brien of Green Bay, Wisconsin. The Board requested that in the future stipulations be presented in Closed Session.

RECESS TO CLOSED SESSION

MOTION: Peter Schils moved, seconded by Rick Unbehaun, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), (f), and (g), Wis.

Stats., to consider the licensing or discipline of persons licensed by the Board or the investigation of charges against such a person. Specifically, to discuss the issue of case status reports, case closings, monitoring issues, extension requests, and pending applications. Motion carried unanimously by a roll call vote: Bonnie Gift-yes; Bob Cress-yes; Rick Unbehaun-yes; Peter Schils - yes; Roy Pfeffer-yes.

Open Session recessed at 12:17 a. m. and Closed Session convened immediately thereafter.

CLOSED SESSION

The Board deliberated on one case closing, a monitoring report, an application for reinstatement, a proposed stipulation, a proposed decision, and issues involving the Loewen Group.

RECONVENE IN OPEN SESSION

MOTION: Rick Unbehaun moved, seconded by Bonnie Gift, to reconvene in Open Session at 3:19 p. m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MONITORING REPORT

Juan Barquet (Oak Creek, WI)

MOTION: Peter Schils moved, seconded by Bonnie Gift, to approve a one-year stay of the suspension. Motion carried unanimously.

Jacquelynn Rothstein will prepare an Order relating to this decision.

CASE CLOSINGS

MOTION: Peter Schils moved, seconded by Rick Unbehaun, to close Case 01 FDR 012, as an administrative closure, due to the death of the respondent. Motion carried unanimously. (Roy Pfeffer, the case adviser, abstained.)

REQUEST FOR REINSTATEMENT

Mark Laemmrich (Neenah, WI)

MOTION: Bonnie Gift moved, seconded by Robert Cress, that the Board table the decision on this matter until the Board has had an opportunity to review the following information that the Board would like Mr. Laemmrich to provide to the Board:

1. Any probation or parole records, as the case may be or may have been, including a letter from Laemmrich's former or current probation or parole officer concerning compliance with probation or parole and the officer's recommendation regarding the Board granting him a funeral director's license.
2. A letter of support from the employers listed in Laemmrich's correspondence with the Department, including the nature of the business of Cornerstone Marketing (The Alliance Group) and the nature of Laemmrich's work with that company.
3. A letter of support from a representative of St. Norbert College and a letter of support from a representative of Marian College concerning Laemmrich's work as a basketball coach.

The motion was carried unanimously.

PENDING APPLICATIONS

None

PROPOSED STIPULATION

Charles A. O'Brien (Green Bay, WI)

MOTION: Peter Schils moved, seconded by Robert Cress, to accept the Findings of Fact, Conclusions of Law and the proposed Order, relating to Charles A. O'Brien. Motion carried unanimously. (Roy Pfeffer, the case adviser, did not vote.)

Alan Jensen, Jensen-Jinsky Funeral Home (Plover, WI) and Peter N. Van Wagenen (Stevens Point, WI)

MOTION: Peter Schils moved, seconded by Robert Cress, to accept the Findings of Fact, Conclusions of Law and the proposed Order of the Administrative Law Judge, relating to Alan Jensen, Jensen-Jinsky Funeral Home (Plover, WI) and Peter N. Van Wagenen (Stevens Point, WI). The motion passed with 3 members voting yes and Roy Pfeffer voting no. (Rick Unbehaun was not present for the deliberations and he did not vote on the matter.)

LEGAL ACTION AGAINST THE LOEWEN GROUP

The Board agreed that no more discussion of this matter is needed at this time.

ADJOURNMENT

MOTION: Bonnie Gift moved, seconded by Robert Cress, to adjourn the meeting at 3:30 p. m. Motion carried unanimously.

Next Meeting Date: November 6, 2001